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58687 7590 08/21/2008 DUBOIS, BRYANT, CAMPBELL & SCHWARTZ, LLP 700 LAVACA STREET SUITE 1300 AUSTIN, TX 78701				
EXAMINER BUTLER, PATRICK NEAL				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/757,828

Applicant(s)

PARISH, BART P.

Examiner

Patrick Butler

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,7-21,30-32 and 34-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,3,7-21,30-32 and 34-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2, 3, 7-21, and 30-32 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 2, 3, 7-21, and 30-32 require monitoring the temperature of the feedstock for purposes of fire prevention. However, the Specification as originally filed only supports monitoring the temperature of the cubed product. Therefore, support is present for having the final product (cubes) rather than the intermediate product (feedstock) monitored. While support exists for fire fighting equipment along the process, the fire fighting equipment does not equate to monitoring the temperature (see Specification, [0027]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 7, 8, 12, 13, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cantrell (US Patent No. 6,017,475).

With respect to Claim 2, Cantrell teaches a method of making a product using a combined combustible material of household garbage including plastic bottles and paper (method of making combustible products from recyclable materials; feedstock is ... thermoplastic material, cellulosic fiber) (see col. 1, lines 14-15; col. 5, lines 1-7; col. 11, line 64 through col. 12, line 4). As the household garbage contains materials that have been brought together in the production of the garbage, it is therefore already, to some degree, a blended material (blending feedstock). Cantrell teaches reducing particle size by using a grinder (inputting said blended feedstock into a grinder for the purpose of reducing the size of said blended feedstock) (see col. 9, lines 9-15; col. 11, line 64 through col. 12, line 4), squeezing the shards, applying high pressure, and extruding the material into bricks, blocks, or fire logs (compressing and extruding said reduced blended feedstock through a cuber so as to create combustible products) (see col. 9, lines 54-57; col. 10, lines 17-25 and 35-46; col. 11, lines 20-27). In extruding, the location on the apparatus that the material is extruded from would be the die hole used to form combustible products. Moreover, as the expeller and extruder would constitute at least two dies, there would be at least two die holes. It is noted on page 9, lines 5-9, within paragraph [0023], of Applicant's specification that Applicant defines cuber to encompass an apparatus that makes items of a variety of shapes:

The term "cube" refers to a discrete product of any size or shape that contains both cellulosic material and thermoplastic material. The cube

need not be square or even symmetrical. While it may be useful to form the products in the shape of cubes, they can be any suitable symmetrical configuration such as the shape of a tube or a sphere.

This limitation is taught by Cantrell's bricks, blocks, and fire logs. Moreover, Cantrell teaches the limitation of extruding through a cuber in the teaching of extruding to form a building block (see col. 11, lines 12-28). With respect to the limitation "substantially" regarding the selection of feedstock, the examiner interprets the limitation to require at least one of the Markush members listed in more than a trace amount. Therefore, the limitation was met by the plastic bottle article as well as wood or cloth taught by Cantrell rather than trace amount such mining waste with mistakenly collected windblown paper litter such as material from a quarry or sheet metal with paper litter or miniscule product labels such as material collected in large construction metal recycling bins.

Cantrell teaches automated use of the hydrolyzer containing the reduced blended material by setting the hydrolyzer at temperature and pressure ranges (see col. 10, lines 11-34 and col. 12, lines 41-49). Cantrell teaches controlling the hydrolyzing function with a programmable logic controller (see col. 12, lines 34-40).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to monitor and control the temperature during the control of the hydrolyzing function in order to operate the hydrolyzer at the preferred temperature (see col. 10, lines 11-25) minimize the time needed to complete the process (see col. 10, lines 17-25 and col. 12, lines 41-49), and kill microbes (see col. 12, lines 63-65).

With respect to Claims 2, 7, 12, and 17, Cantrell does not appear to explicitly teach that the grinder operating torque is within the claimed range (e.g., between about 18,000 and 20,000 ft-lbs of torque per motor shaft). However, in this regard, Cantrell further teaches that the grinder operates at a rated velocity depending upon the configuration of the machine used and that it rotates so that the work piece is ground to the desired shape, size, and finish (see 9, lines 27-35). Given that the velocity and material is ground properly, the torque would be a function of these variables. As such, Cantrell obvious recognizes that the grinder operating torque is a result-effective variable. Since that the grinder operating torque would be a result-effective variable, one of ordinary skill in the art would have obviously determined the optimum grinder operating torque applied in the process of Cantrell through routine experimentation based upon rated velocity and grinding to the desired shape, size, and finish.

With respect to Claims 3, 8, 13, and 18, Cantrell does not appear to explicitly teach that the grinder operating speed is within the claimed range (e.g., between about 75 to about 80 rpm). However, in this regard, Cantrell further teaches that the grinder operates at a rated velocity depending upon the configuration of the machine used and that it rotates so that the work piece is ground to the desired shape, size, and finish (see 9, lines 27-35). As such, Cantrell obvious recognizes that the grinder operating speed is a result-effective variable. Since that the grinder operating speed would be a result-effective variable, one of ordinary skill in the art would have obviously determined the optimum grinder operating speed applied in the process of Cantrell through routine

experimentation based upon rated velocity and grinding to the desired shape, size, and finish.

Claims 9-11, 14-16, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cantrell (US Patent No. 6,017,475) as applied to claims 2, 7, 12, and 17 above, and further in view of Jesse (US Patent No. 5,342,418).

With respect to Claims 9, 14, and 19, Cantrell teaches making combustible products from recyclable materials as previously described. Cantrell teaches using combustible rubbish (see col. 1, lines 13-16 and 25-31) including plastic bottles (see col. 5, lines 1-7).

Cantrell does not appear to expressly teach polyethylene, polypropylene, and polybutylene as components of the combustible rubbish.

Jesse teaches that polyethylene, polypropylene, and polybutylene (thermoplastic material is selected from the group consisting of polyethylene, polypropylene ... polybutylene) are elements of combustion obtained from disposable diapers (recyclable materials) (see col. 7, 22-40 and 49-61).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the polymers in disposable diapers as taught by Jesse in the process of making combustible products as taught by Cantrell because Cantrell requires combustible rubbish and Jesse teaches combustible disposable material. Moreover, Jesse teaches that the material is well known to be recycled to make combustible products (see col. 7, 22-40 and 49-61).

With respect to Claims 10, 11, 15, 16, 20, and 21 it is noted that there is no positively claimed step of producing disposable diapers, sanitary pads, adhesive liners, and hospital gowns. Thus, any materials in disposable diapers, sanitary pads, adhesive liners, and hospital gowns would be materially identical to byproducts and waste of production. Jesse teaches using disposable diapers and sanitary pads (hygiene pads) (see col. 7, lines 49-61).

Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cantrell (US Patent No. 6,017,475) as applied to Claim 2 above, and further in view of Wesley et al. (US Patent No. 4,789,507).

Cantrell teaches a method of making combustible products as previously described with respect to claim 2.

With respect to Claims 30 and 31, Cantrell does not appear to explicitly teach that the grinder operating torque is within the claimed range (e.g., between about 18,000 and 20,000 ft-lbs of torque per motor shaft). However, in this regard, Cantrell further teaches that the grinder operates at a rated velocity depending upon the configuration of the machine used and that it rotates so that the work piece is ground to the desired shape, size, and finish (see 9, lines 27-35). Given that the velocity and material is ground properly, the torque would be a function of these variables. As such, Cantrell obviously recognizes that the grinder operating torque is a result-effective variable. Since that the grinder operating torque would be a result-effective variable, one of ordinary skill in the art would have obviously determined the optimum grinder

operating torque applied in the process of Cantrell through routine experimentation based upon rated velocity and grinding to the desired shape, size, and finish.

Cantrell does not expressly teach monitoring the operational characteristics of said grinder and cuber using a software application. It is noted that there is no claimed step of controlling, regardless of any data "monitor[ed]." Therefore, any mentioning of any process monitoring involving 1) software and 2) a grinder or extruder (cuber) would meet the limitations of the claim since any parameter could be used to control the process regardless of whether or not specific controlling is taught.

Wesley teaches that when using an extruder, the speed of the extruder (cuber; speed of the cuber) is monitored as well as the pump outlet pressure (cuber; the pressure required to perform the cubing operation) (see col. 8, lines 41-56).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Wesley's monitoring with Cantrell's process of making combustible products in order to form a feedback control of the process as well as to control the rate of flow into the extruder (cuber) (see col. 8, lines 41-56).

With respect to Claim 32, Cantrell does not appear to explicitly teach that the grinder operating speed is within the claimed range (e.g., between about 75 to about 80 rpm). However, in this regard, Cantrell further teaches that the grinder operates at a rated velocity depending upon the configuration of the machine used and that it rotates so that the work piece is ground to the desired shape, size, and finish (see 9, lines 27-35). As such, Cantrell obvious recognizes that the grinder operating speed is a result-effective variable. Since that the grinder operating speed would be a result-effective

variable, one of ordinary skill in the art would have obviously determined the optimum grinder operating speed applied in the process of Cantrell through routine experimentation based upon rated velocity and grinding to the desired shape, size, and finish.

Claims 34-37, 41, 42, 46, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cantrell (US Patent No. 6,017,475) in view of Lovercheck et al. (US Patent No. 3,547,577).

With respect to Claim 34, Cantrell teaches a method of making a product using a combined combustible material of household garbage including plastic bottles and paper (method of making combustible products from recyclable materials; feedstock is ... thermoplastic material, cellulosic fiber) (see col. 1, lines 14-15; col. 5, lines 1-7; col. 11, line 64 through col. 12, line 4). As the household garbage contains materials that have been brought together in the production of the garbage, it is therefore already, to some degree, a blended material (blending feedstock). Cantrell teaches reducing particle size by using a grinder (inputting said blended feedstock into a grinder for the purpose of reducing the size of said blended feedstock) (see col. 9, lines 9-15; col. 11, line 64 through col. 12, line 4), squeezing the shards, applying high pressure, and extruding the material into bricks, blocks, or fire logs (compressing and extruding said reduced blended feedstock through a cuber so as to create combustible products) (see col. 9, lines 54-57; col. 10, lines 17-25 and 35-46; col. 11, lines 20-27). In extruding, the location on the apparatus that the material is extruded from would be the die hole used to form combustible products. Moreover, as the expeller and extruder would constitute

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at least two dies, there would be at least two die holes. It is noted on page 9, lines 5-9, within paragraph [0023], of Applicant's specification that Applicant defines cuber to encompass an apparatus that makes items of a variety of shapes:

The term "cube" refers to a discrete product of any size or shape that contains both cellulosic material and thermoplastic material. The cube need not be square or even symmetrical. While it may be useful to form the products in the shape of cubes, they can be any suitable symmetrical configuration such as the shape of a tube or a sphere.

This limitation is taught by Cantrell's bricks, blocks, and fire logs. With respect to the limitation "substantially" regarding the selection of feedstock, the examiner interprets the limitation to require at least one of the Markush members listed in more than a trace amount. Therefore, the limitation was met by the plastic bottle article as well as wood or cloth taught by Cantrell rather than trace amount such mining waste with mistakenly collected windblown paper litter such as material from a quarry or sheet metal with paper litter or miniscule product labels such as material collected in large construction metal recycling bins.

Cantrell does not expressly teach monitoring the temperature of the combustible products for purposes of fire prevention.

Lovercheck teaches forming briquettes 36 and maintaining them at 130 °F to sterilize the material (see col. 2, lines 48-57), which is interpreted as meaning the temperature of the combustible products is monitored to some degree since the

temperature is maintained (teach monitoring the temperature of the combustible products for purposes of fire prevention).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to heat the cubes of Cantrell as taught by Lovercheck in order to provide a sterilized product of garbage (see Lovercheck, col. 1, lines 33-47).

With respect to Claims 34, 36, 41, and 46, Cantrell does not appear to explicitly teach that the grinder operating torque is within the claimed range (e.g., between about 18,000 and 20,000 ft-lbs of torque per motor shaft). However, in this regard, Cantrell further teaches that the grinder operates at a rated velocity depending upon the configuration of the machine used and that it rotates so that the work piece is ground to the desired shape, size, and finish (see 9, lines 27-35). Given that the velocity and material is ground properly, the torque would be a function of these variables. As such, Cantrell obvious recognizes that the grinder operating torque is a result-effective variable. Since that the grinder operating torque would be a result-effective variable, one of ordinary skill in the art would have obviously determined the optimum grinder operating torque applied in the process of Cantrell through routine experimentation based upon rated velocity and grinding to the desired shape, size, and finish.

With respect to Claims 35, 37, 42, and 47, Cantrell does not appear to explicitly teach that the grinder operating speed is within the claimed range (e.g., between about 75 to about 80 rpm). However, in this regard, Cantrell further teaches that the grinder operates at a rated velocity depending upon the configuration of the machine used and that it rotates so that the work piece is ground to the desired shape, size, and finish (see

9, lines 27-35). As such, Cantrell obvious recognizes that the grinder operating speed is a result-effective variable. Since that the grinder operating speed would be a result-effective variable, one of ordinary skill in the art would have obviously determined the optimum grinder operating speed applied in the process of Cantrell through routine experimentation based upon rated velocity and grinding to the desired shape, size, and finish.

Claims 38-40, 43-45, and 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cantrell (US Patent No. 6,017,475) in view of Lovercheck et al. (US Patent No. 3,547,577) as applied to claims 34, 36, 41, and 46 above, and further in view of Jesse (US Patent No. 5,342,418).

With respect to Claims 38, 43, and 48, Cantrell teaches making combustible products from recyclable materials as previously described. Cantrell teaches using combustible rubbish (see col. 1, lines 13-16 and 25-31) including plastic bottles (see col. 5, lines 1-7).

Cantrell does not appear to expressly teach polyethylene, polypropylene, and polybutylene as components of the combustible rubbish.

Jesse teaches that polyethylene, polypropylene, and polybutylene (thermoplastic material is selected from the group consisting of polyethylene, polypropylene ... polybutylene) are elements of combustion obtained from disposable diapers (recyclable materials) (see col. 7, 22-40 and 49-61).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the polymers in disposable diapers as taught by Jesse

in the process of making combustible products as taught by Cantrell because Cantrell requires combustible rubbish and Jesse teaches combustible disposable material. Moreover, Jesse teaches that the material is well known to be recycled to make combustible products (see col. 7, 22-40 and 49-61).

With respect to Claims 39, 40, 44, 45, 49, and 50 it is noted that there is no positively claimed step of producing disposable diapers, sanitary pads, adhesive liners, and hospital gowns. Thus, any materials in disposable diapers, sanitary pads, adhesive liners, and hospital gowns would be materially identical to byproducts and waste of production. Jesse teaches using disposable diapers and sanitary pads (hygiene pads) (see col. 7, lines 49-61).

Claims 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cantrell (US Patent No. 6,017,475) in view of Lovercheck et al. (US Patent No. 3,547,577) as applied to Claim 34 above, and further in view of Wesley et al. (US Patent No. 4,789,507).

Cantrell in view of Lovercheck teaches a method of making combustible products as previously described with respect to claim 34.

With respect to Claims 51 and 52, Cantrell does not appear to explicitly teach that the grinder operating torque is within the claimed range (e.g., between about 18,000 and 20,000 ft-lbs of torque per motor shaft). However, in this regard, Cantrell further teaches that the grinder operates at a rated velocity depending upon the configuration of the machine used and that it rotates so that the work piece is ground to the desired shape, size, and finish (see 9, lines 27-35). Given that the velocity and

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material is ground properly, the torque would be a function of these variables. As such, Cantrell obvious recognizes that the grinder operating torque is a result-effective variable. Since that the grinder operating torque would be a result-effective variable, one of ordinary skill in the art would have obviously determined the optimum grinder operating torque applied in the process of Cantrell through routine experimentation based upon rated velocity and grinding to the desired shape, size, and finish.

Cantrell does not expressly teach monitoring the operational characteristics of said grinder and cuber using a software application. It is noted that there is no claimed step of controlling, regardless of any data "monitor[ed]." Therefore, any mentioning of any process monitoring involving 1) software and 2) a grinder or extruder (cuber) would meet the limitations of the claim since any parameter could be used to control the process regardless of whether or not specific controlling is taught.

Wesley teaches that when using an extruder, the speed of the extruder (cuber; speed of the cuber) is monitored as well as the pump outlet pressure (cuber; the pressure required to perform the cubing operation) (see col. 8, lines 41-56).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Wesley's monitoring with Cantrell's process of making combustible products in order to form a feedback control of the process as well as to control the rate of flow into the extruder (cuber) (see col. 8, lines 41-56).

With respect to Claim 53, Cantrell does not appear to explicitly teach that the grinder operating speed is within the claimed range (e.g., between about 75 to about 80 rpm). However, in this regard, Cantrell further teaches that the grinder operates at a

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rated velocity depending upon the configuration of the machine used and that it rotates so that the work piece is ground to the desired shape, size, and finish (see 9, lines 27-35). As such, Cantrell obvious recognizes that the grinder operating speed is a result-effective variable. Since that the grinder operating speed would be a result-effective variable, one of ordinary skill in the art would have obviously determined the optimum grinder operating speed applied in the process of Cantrell through routine experimentation based upon rated velocity and grinding to the desired shape, size, and finish.

Response to Arguments

Applicant's arguments filed 03 June 2008 have been fully considered but they are not persuasive.

Applicant argues with respect to the 35 USC 103(a) rejections. Applicant's arguments appear to be on the grounds that:

1) The newly amended limitations of monitoring the temperature of feedstock for purposes of fire prevention are not taught by Cantrell.

The Applicant's arguments are addressed as follows:

1) As recited above regarding temperature monitoring:

Cantrell teaches automated use of the hydrolyzer containing the reduced blended material by setting the hydrolyzer at temperature and pressure ranges (see col. 10, lines 11-34 and col. 12, lines 41-49). Cantrell teaches controlling the hydrolyzing function with a programmable logic controller (see col. 12, lines 34-40).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to monitor and control the temperature during the control of the hydrolyzing function in order to operate the hydrolyzer at the preferred temperature (see col. 10, lines 11-25) minimize the time needed to complete the process (see col. 10, lines 17-25 and col. 12, lines 41-49), and kill microbes (see col. 12, lines 63-65).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Butler whose telephone number is (571) 272-8517. The examiner can normally be reached on Mon.-Thu. 7:30 a.m.-5 p.m. and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. B./

Examiner, Art Unit 1791

/Monica A Huson/

Primary Examiner, Art Unit 1791